



January 30, 2004

HOUSE BILL No. 1271

DIGEST OF HB 1271 (Updated January 28, 2004 2:53 pm - DI 92)

Citations Affected: IC 4-15; IC 6-2.5; IC 9-13; IC 9-15; IC 9-18; IC 9-29; noncode.

Synopsis: Motor vehicles and taxation. Establishes certain protections for employees of the bureau of motor vehicles commission who report violations of federal, state, or local laws or the misuse of public resources. Increases from \$1,000 to \$2,500 the average monthly threshold that determines when a retail merchant must remit sales taxes. Eliminates the \$2 annual fee to renew a permanent registration of a semitrailer. Repeals the registration fee for a converter dolly.

Effective: Upon passage; July 1, 2004.

Liggett, McClain

January 15, 2004, read first time and referred to Committee on Labor and Employment.
January 22, 2004, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.
January 29, 2004, amended, reported — Do Pass.

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HB 1271—LS 7351/DI 75+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1271

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-15-10-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
3 chapter:

4 "Agency" means any state administration, agency, authority, board,
5 bureau, commission, committee, council, department, division,
6 institution, office, service, or other similar body of state government
7 created or established by law. However, the term does not include **the**
8 **following:**

9 (1) State colleges and universities.

10 (2) **The bureau of motor vehicles commission, unless the**
11 **bureau of motor vehicles commission has decided to be under**
12 **the jurisdiction and rules adopted by the state ethics**
13 **commission, as provided in IC 9-15-2-2.2(a)(2).**

14 "Appointing authority" means the individual or group of individuals
15 who have the power by law or by lawfully delegated authority to make
16 appointment to a position in an agency.

17 "Employee" means an employee of an agency except an elected

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official.

"Supervisor" means an individual who oversees the daily activity of an employee.

SECTION 2. IC 6-2.5-6-1, AS AMENDED BY P.L.192-2002(ss), SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Each person liable for collecting the state gross retail or use tax shall file a return for each calendar month and pay the state gross retail and use taxes that the person collects during that month. A person shall file the person's return for a particular month with the department and make the person's tax payment for that month to the department not more than thirty (30) days after the end of that month, if that person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year did not exceed ~~one thousand dollars (\$1,000)~~ **two thousand five hundred dollars (\$2,500)**. If a person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year exceeded ~~one thousand dollars (\$1,000)~~ **two thousand five hundred dollars (\$2,500)**, that person shall file the person's return for a particular month and make the person's tax payment for that month to the department not more than twenty (20) days after the end of that month.

(b) If a person files a combined sales and withholding tax report and either this section or IC 6-3-4-8.1 requires sales or withholding tax reports to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(c) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(d) Instead of the reporting periods required under subsection (a), the department may permit a retail merchant to report and pay the merchant's state gross retail and use taxes for a period covering:

- (1) a calendar year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed ten dollars (\$10);
- (2) a calendar half year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed twenty-five dollars (\$25); or

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(3) a calendar quarter, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed seventy-five dollars (\$75).

A retail merchant using a reporting period allowed under this subsection must file the merchant's return and pay the merchant's tax for a reporting period not later than the last day of the month immediately following the close of that reporting period.

(e) If a retail merchant reports the merchant's adjusted gross income tax, or the tax the merchant pays in place of the adjusted gross income tax, over a fiscal year or fiscal quarter not corresponding to the calendar year or calendar quarter, the merchant may, without prior departmental approval, report and pay the merchant's state gross retail and use taxes over the merchant's fiscal period that corresponds to the calendar period the merchant is permitted to use under subsection (d). However, the department may, at any time, require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:

- (1) this section;
- (2) IC 6-3-4-8; or
- (3) IC 6-3-4-8.1.

(g) If the department determines that a person's:

- (1) estimated monthly gross retail and use tax liability for the current year; or
- (2) average monthly gross retail and use tax liability for the preceding year;

exceeds ten thousand dollars (\$10,000), the person shall pay the monthly gross retail and use taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) If a person's gross retail and use tax payment is made by electronic funds transfer, the taxpayer is not required to file a monthly gross retail and use tax return. However, the person shall file a quarterly gross retail and use tax return before the twentieth day after the end of each calendar quarter.

SECTION 3. IC 9-13-2-176.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 176.5. "Supervisor", for purposes of IC 9-15-2, has the meaning set forth in IC 9-15-2-0.5.**

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SECTION 4. IC 9-15-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "supervisor" means an individual who oversees the daily activity of an employee.**

SECTION 5. IC 9-15-2-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) If the commission has established a code of ethics for its employees under section 2.2(a) of this chapter, an employee of the commission may submit a written report to the employee's supervisor or a commission employee with authority greater than the employee's supervisor concerning the existence of a violation of a federal law or regulation, a violation of a state law or rule, a violation of an ordinance of a county or municipality (as defined in IC 36-1-2-11), or the misuse of public resources. However, if:**

(1) the employee believes that the supervisor and the commission employee with authority greater than the employee's supervisor are committing a violation or misusing public resources; or

(2) the employee reports the suspected violation or misuse to the supervisor or commission employee with authority greater than the employee's supervisor and a good faith effort is not made to correct the problem within a reasonable time;

the employee may submit a written report of the violation or misuse to any person, agency, commission, or organization.

(b) If an employee submits a report under subsection (a), the employee may not:

(1) be dismissed from employment;

(2) have salary increases or employment related benefits withheld;

(3) be transferred or reassigned;

(4) be denied a promotion the employee otherwise would have received; or

(5) be demoted;

solely for submitting the report.

(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the accuracy of any information submitted in a report and may be subject to disciplinary actions, including suspension or dismissal, for knowingly furnishing false information, as determined by the employee's supervisor.

(d) An employee disciplined under subsection (c) may appeal the

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disciplinary action under the procedure set forth in a personnel policy adopted by a rule of the commission. The rule must provide that, if the result of the decision reached in the appeal is not agreeable to the employee, the employee may institute a civil action to appeal the disciplinary action. The preferred venue for the civil action is in the county in which the employee is employed.

(e) If the employee prevails in a civil action brought under subsection (d), the court shall allow the employee reasonable attorney's fees, including litigation expenses, and costs.

SECTION 6. IC 9-29-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The registration fee for each semitrailer to be used with a tractor licensed under this section is as follows:

- (1) Thirty dollars (\$30) for a one (1) year registration.
- (2) Sixty dollars (\$60) for a five (5) year registration. However, the five (5) year registration fee shall be reduced by twelve dollars (\$12) for each full year after the initial year of the five (5) year period provided in IC 9-18. However, the reduced fee may not be less than the registration fee for a one (1) year registration.
- (3) For a permanent registration, the fee is ~~as follows:~~
 - (A) sixty-five dollars (\$65). ~~at the time the semitrailer is first registered.~~
 - (B) ~~Two dollars (\$2) annually to renew the registration.~~

SECTION 7. IC 9-18-9-4 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-15-2-3, as added by this act, the bureau of motor vehicles commission shall adopt a personnel policy that includes a disciplinary procedure described in IC 9-15-2-3(d), as added by this act. The policy must provide that, if the result of the decision reached in the appeal is not agreeable to the employee, the employee may institute a civil action to appeal the disciplinary action. The bureau of motor vehicles commission shall carry out the duties imposed on it by IC 9-15-2-3, as added by this act, under interim written guidelines approved by the bureau of motor vehicles commissioner.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 9-15-2-3, as added by this act.
- (2) January 1, 2005.

SECTION 9. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1271, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 11, nays 3.

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HB 1271—LS 7351/DI 75+



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1271, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and taxation.

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 35.

Page 4, line 3, delete "Before January 1, 2005, the" and insert "The".

Page 4, delete lines 14 through 42.

Delete pages 5 through 10, begin a new paragraph and insert:

"SECTION 12. IC 6-2.5-6-1, AS AMENDED BY P.L.192-2002(ss), SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Each person liable for collecting the state gross retail or use tax shall file a return for each calendar month and pay the state gross retail and use taxes that the person collects during that month. A person shall file the person's return for a particular month with the department and make the person's tax payment for that month to the department not more than thirty (30) days after the end of that month, if that person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year did not exceed ~~one thousand dollars (\$1,000)~~ **two thousand five hundred dollars (\$2,500)**. If a person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year exceeded ~~one thousand dollars (\$1,000)~~ **two thousand five hundred dollars (\$2,500)**, that person shall file the person's return for a particular month and make the person's tax payment for that month to the department not more than twenty (20) days after the end of that month.

(b) If a person files a combined sales and withholding tax report and either this section or IC 6-3-4-8.1 requires sales or withholding tax reports to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(c) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into

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a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(d) Instead of the reporting periods required under subsection (a), the department may permit a retail merchant to report and pay the merchant's state gross retail and use taxes for a period covering:

- (1) a calendar year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed ten dollars (\$10);
- (2) a calendar half year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed twenty-five dollars (\$25); or
- (3) a calendar quarter, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed seventy-five dollars (\$75).

A retail merchant using a reporting period allowed under this subsection must file the merchant's return and pay the merchant's tax for a reporting period not later than the last day of the month immediately following the close of that reporting period.

(e) If a retail merchant reports the merchant's adjusted gross income tax, or the tax the merchant pays in place of the adjusted gross income tax, over a fiscal year or fiscal quarter not corresponding to the calendar year or calendar quarter, the merchant may, without prior departmental approval, report and pay the merchant's state gross retail and use taxes over the merchant's fiscal period that corresponds to the calendar period the merchant is permitted to use under subsection (d). However, the department may, at any time, require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:

- (1) this section;
- (2) IC 6-3-4-8; or
- (3) IC 6-3-4-8.1.

(g) If the department determines that a person's:

- (1) estimated monthly gross retail and use tax liability for the current year; or
- (2) average monthly gross retail and use tax liability for the preceding year;

exceeds ten thousand dollars (\$10,000), the person shall pay the monthly gross retail and use taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight

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courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) If a person's gross retail and use tax payment is made by electronic funds transfer, the taxpayer is not required to file a monthly gross retail and use tax return. However, the person shall file a quarterly gross retail and use tax return before the twentieth day after the end of each calendar quarter."

Page 11, delete lines 1 through 17.

Page 11, delete lines 22 through 42.

Delete pages 12 through 13.

Page 14, delete lines 1 through 37.

Page 16, delete lines 5 through 42.

Delete pages 17 through 27.

Page 28, delete lines 1 through 31, begin a new paragraph and insert:

"SECTION 52. IC 9-29-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The registration fee for each semitrailer to be used with a tractor licensed under this section is as follows:

(1) Thirty dollars (\$30) for a one (1) year registration.

(2) Sixty dollars (\$60) for a five (5) year registration. However, the five (5) year registration fee shall be reduced by twelve dollars (\$12) for each full year after the initial year of the five (5) year period provided in IC 9-18. However, the reduced fee may not be less than the registration fee for a one (1) year registration.

(3) For a permanent registration, the fee is as follows:

~~(A) sixty-five dollars (\$65). at the time the semitrailer is first registered:~~

~~(B) Two dollars (\$2) annually to renew the registration:~~

SECTION 53. IC 9-18-9-4 IS REPEALED [EFFECTIVE JULY 1, 2004]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1271 as printed January 27, 2004.)

CRAWFORD, Chair

Committee Vote: yeas 27, nays 1.

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